

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$15,830.00 U.S. CURRENCY,

Defendant.

ORDER

13-cv-699-bbc

In an order entered on March 2, 2015, dkt. #32, I gave claimant Gary M. Elmer one last chance to respond to the government's requests for discovery that were served on him in September 2014 and again in both October and November 2014. Dkt. #19-1, 19-2 and 19-3. I told Elmer that if he failed to respond, I would grant the government's motion for default judgment. Dkt. #27. Elmer filed a timely response to the court's order, saying that he understands he cannot prevail in this case, dkt. #33, which I take as a concession that he has no evidence to challenge the seizure of his money in May 2013.

Elmer is right when he says that he cannot prevail in the case. He has no evidence, other than his own say-so, that the money seized by law enforcement from his backpack was a birthday gift and not, as the government contends, money intended to pay for marijuana mailed to "Elmer G. Auto Shop," and picked up on May 14, 2013 by Wade Carroll and Elmer in Elmer's truck. He does say that he has a book showing that he earns money from

working on specialty cars and that he works as an independent contractor, doing electrical, plumbing, insulating, dry wall, concrete and plaster work, as well as landscaping, fence line cleaning, removing snow and cutting and selling firewood, but the possibility that he has a number of legitimate sources for money does not mean that the seized money could not have come from a illegal source. Accordingly, the government's motion for default judgment will be granted.

In his response, Elmer expresses his concern that he will be viewed as a drug cartel leader or worse, but his fears are unfounded. He may or may not have participated in a scheme with Wade Carroll to obtain marijuana but he is losing his claim to the \$15,830 only because he has no evidence to defeat the government's forfeiture action. He has not been charged as a criminal, let alone as the leader of a cartel. He will not be in custody. He can continue to do the kind of specialty work at which he seems to excel, as well as work at his subcontracting jobs and help his mother with her farm.

ORDER

IT IS ORDERED that the government's motion, dkt. #27, to dismiss the case as a sanction for claimant Gary Elmer's failure to comply with this court's order to provide his

discovery materials to the government, dkt. #32, is GRANTED. The clerk of court is directed to enter judgment for the government and close this case.

Entered this 18th day of March, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge